

Arvizu Totality-of-the-Circumstances Analysis Applied to the Freedman Surveillance Theory

Executive Summary

United States v. Arvizu, 534 U.S. 266 (2002), unanimously held that courts assessing the reasonableness of an investigatory stop under the Fourth Amendment must evaluate the **totality of the circumstances** rather than atomizing and dismissing each individual factor as innocuous in isolation. The core holding forbids the "divide-and-conquer" method of analysis — the very method applied by multiple administrative and judicial tribunals when they dismissed Gary Freedman's surveillance theory piece by piece and classified his contemporaneous observations as delusional ideas of reference.^{[1][2][^3]}

This report applies the *Arvizu* framework rigorously and non-tendentiously to the factual record set forth in Freedman's Revised Surveillance Affidavit of March 5, 2026. It identifies which clusters of evidence, when viewed cumulatively and holistically as *Arvizu* requires, carried sufficient weight to warrant targeted factual investigation, which observations are too inferential to carry independent evidentiary weight, and where a genuine evidentiary residue survives even the most skeptical assessment.

A critical preliminary clarification: *Arvizu* and its Fourth Amendment lineage are criminal-procedure doctrines originally designed to evaluate government actors' justification for investigatory stops. The framework is being applied here *analogically* — as an epistemological methodology for assessing the reasonableness of Freedman's own inference-drawing — rather than to determine whether any government actor's conduct was constitutionally permissible. The question is: would a reasonable, trained observer, confronted with the same cumulative pattern of facts and drawing on the kind of experiential inference that *Arvizu* expressly permits, have possessed a "particularized and objective basis" for suspecting that Akin Gump was conducting or coordinating some form of monitoring or information-gathering about Freedman?^{[4][2][^5][1]}

Part I: The *Arvizu* Framework — Legal Architecture

The Anti-Atomization Principle

Before *Arvizu*, several circuits had adopted what the Supreme Court condemned as a "divide-and-conquer" methodology: reviewing courts would isolate each fact offered by an officer to justify a stop, determine that each fact standing alone had an innocent explanation, and then conclude that the sum of innocent facts yielded no reasonable suspicion. The Ninth Circuit had done exactly this in the *Arvizu* case below, stripping away each of Border Patrol Agent Stoddard's observations one by one until nothing remained.^{[3][6]}

The Supreme Court reversed unanimously, reaffirming that "[w]hen discussing how reviewing courts should make reasonable-suspicion determinations, we have said repeatedly that they must look at the 'totality of the circumstances' of each case to see whether the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing." The Court specifically held that "[i]ndividual factors that may appear innocent in isolation may constitute suspicious behavior when aggregated together."^{[2][1][^3]}

The Experiential Inference Principle

Arvizu also endorses the use of trained experiential inference in drawing reasonable conclusions from observed facts. The opinion states that the process "allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person." This principle is significant for the Freedman analysis: some of the most probative observations in his affidavit involve social dynamics within a large law firm, the sociology of workplace retaliation, the ethics of ex parte psychiatric consultation, and the biographical interconnections of a small D.C. psychoanalytic community — all areas where contextual familiarity produces meaningful inference.^{[2][3]}

The "Whole Picture" Requirement

The standard, tracing to *United States v. Cortez*, 449 U.S. 411 (1981), requires that reviewing authorities take in "the whole picture — the entire mosaic" rather than treating each tile in isolation. As one federal court synthesized the doctrine: "the reasonable suspicion test is not an exercise in evaluating individual details in isolation. It is the whole picture, evaluated together, that serves as the proper analytical framework."^{[5][7][^8]}

The Threshold: Reasonable Suspicion, Not Proof

Crucially, the *Arvizu* framework does not require proof, certainty, or even a preponderance of evidence. The standard demands only that facts and inferences, taken together, justify further investigation — a level of confidence "considerably less than proof of wrongdoing by a preponderance of the evidence." This matters substantially because Freedman's surveillance theory has often been evaluated against a proof standard it was never designed to meet.^{[9][4]}

Part II: The Evidentiary Record — Factor-by-Factor Catalogue

The *Arvizu* methodology begins by cataloguing every available circumstance, however innocent-seeming in isolation, before performing the holistic integration. The following sections organize the material from Freedman's sworn affidavit into analytically distinct clusters.^{[1][3]}

Cluster A — The Ticho-Lassman Disclosure: Strongest Record Evidence

This cluster constitutes what the affidavit itself correctly identifies as the single strongest, independently corroborated fact in the record.

The pre-disclosure naming. In early August 1990, Freedman formed the suspicion that Akin Gump manager Malcolm Lassman had contacted Washington, D.C. psychoanalyst Ernst Ticho, Ph.D. On April 20, 1993, Freedman filed a Social Security disability claim and submitted a sworn statement — subject to federal penalty under 42 U.S.C. § 408 — in which he wrote: "I believe that my former employer has also consulted and submitted a copy of my autobiography to Dr. Ernst Ticho and Dr. Gerald Post, two local psychiatrists." This document independently fixes, under penalty of law and approximately one month before Akin Gump's own disclosure, that Freedman had already named the Ticho family in the specific context of a suspected psychiatric consultation.

The compelled disclosure. On May 17, 1993, Akin Gump's sworn Response to Additional Interrogatories — certified by senior counsel Dennis M. Race as "true and correct to the best of his knowledge and belief" — disclosed for the first time that the firm had in fact consulted a psychiatrist named Gertrude Ticho, M.D., described as "a personal friend of Mr. Lassman," regarding Freedman. The firm had not disclosed any psychiatric consultation at all for roughly nineteen months following Freedman's October 1991 termination, and did so only when compelled by discovery Freedman himself demanded.

The spousal correspondence. Gertrude Ticho was the wife of Ernst Ticho — the very person Freedman had named in his April 1993 federal submission. Ernst and Gertrude Ticho resided together at the same address on Brandywine Street, N.W., Washington, D.C. The name Freedman had focused on — "Ticho" — was specific, uncommon, and identified an actual, identifiable person in a small local professional community. The psychiatrist Akin Gump actually consulted was not a random referral but the spouse of the person Freedman had named, and the firm's own admission characterized her as a personal friend of the manager Freedman had separately identified as his contact with the firm.

The thematic correspondence. Gertrude Ticho had published specifically on self-analysis as a psychoanalytic goal (*International Journal of Psycho-Analysis*, 1967; *Psyche*, 1971). The document Freedman had written — which he titled "The Caliban Complex: An Attempt at Self-Analysis" — was itself explicitly a self-analysis. This thematic alignment between Ticho's professional specialty and the document at the center of Freedman's case does not prove transmission, but it is precisely the kind of contextual detail *Arvizu* instructs reviewing authorities not to discard in isolation.[^3]

The concealment. As the affidavit notes, an ordinary good-faith safety consultation does not require nineteen months of concealment from the very employee being evaluated. Akin Gump's internal termination memorandum of October 29, 1991 omitted the names of both mental health professionals it described as having been consulted. Akin Gump's own Employee Assistance Program provider, Sheppard Pratt Preferred Resources, twice denied in writing (January 15 and July 14, 1993) any record of contact with Race or Lassman concerning Freedman. These layers of non-disclosure do not definitively establish wrongdoing, but they

represent exactly the kind of anomaly that *Arvizu* instructs must be weighed cumulatively rather than individually explained away.

The contradictions. Dr. Ticho's own July 4, 1993 handwritten letter stated: "I never met, nor have I ever spoken to a Mr. Dennis R. [Race] and I do not know your identity, Mr. Gary Freedman nor have I ever seen you for a diagnostic evaluation." A subsequent recorded conversation in October 1993 reiterated the denial. This places Akin Gump's sworn interrogatory responses in direct contradiction with Dr. Ticho's sworn denials — a factual irreconcilability acknowledged in the affidavit and characterized as such by the D.C. Corporation Counsel's own brief, which described Dr. Ticho's letter as "a letter from the psychiatrist denying any contact concerning me." Under *Arvizu*, the existence of a sworn but irreconcilable contradiction is itself a circumstance that a reasonable observer is entitled to weigh; it supports the inference that something irregular occurred in the consultation process.

Arvizu assessment of Cluster A: This cluster carries substantial independent weight under the *Arvizu* framework. The combination of (1) a specific, uncommon name identified under penalty of law nearly three years before the consultation was disclosed; (2) the firm's admission that the psychiatrist consulted was the spouse of that named person and a personal friend of the implicated manager; (3) nineteen months of concealment; and (4) irreconcilable sworn contradictions between the firm and the psychiatrist constitutes a factual mosaic that, taken whole, provides well more than a mere hunch — it provides a "particularized and objective basis" for investigation.^{[1][2]}

Cluster B — The Apartment-Manager Nexus

The lunch conversations. Beginning approximately in April 1989, when Freedman was assigned shared office space with paralegals Stacey Schaar, Gwen Lesh, and Adrienne Clarke, the three gathered regularly at lunch and engaged in conversations that Freedman believed referenced specific details of the contents and physical condition of his apartment. These conversations were characterized as proceeding through double entendres and veiled allusions. The D.C. Attorney General's 1996 appellate brief independently corroborates the occurrence of these conversations and specifically records that they "stopped after [Freedman] spoke with his sister complaining of this type of interaction." The agency's brief did not contradict Freedman's description of the events themselves; the dispute concerned only the legal classification of those events.

The cessation anomaly. The Attorney General's brief confirms the cessation. As the affidavit correctly identifies, random workplace conversations do not possess an inherent mechanism by which they stop in response to a private complaint made to a third party outside the workplace. The cessation specifically following a private complaint to Freedman's sister — rather than, say, a formal workplace complaint — is the kind of behavioral anomaly that *Arvizu* instructs cannot be explained away in isolation. Under the totality framework, it is a data point that a reasonable observer would attach weight to, because it implies a feedback loop between Freedman's private communications and workplace conduct.^{[8][3]}

The Schaar statement. In early August 1989, Schaar accosted Freedman with the declaration: "We're all afraid of you. We're all afraid you're going to buy a gun, bring it in, and shoot

everybody. Even the manager of your apartment building is afraid of you." The reference to the apartment manager is analytically significant: Freedman states he never told Schaar, or anyone at Akin Gump, about Elaine Wranik, and he never raised any concerns about his behavior with Wranik. The statement presupposes awareness — on Schaar's part — of a connection between Akin Gump's concerns about Freedman and Wranik's putative fears. Schaar was both a participant in the apartment-detail lunch conversations and the source of this specific reference, which the affidavit identifies as linking the two incident clusters.

Wranik's access and the self-analytical study. Wranik had a well-documented history of entering Freedman's apartment during working hours and monitoring its condition — a practice she had carried out since at least 1986 and which Freedman accepted as within her managerial authority. In late 1988, Freedman himself gave Wranik a copy of his self-analytical study "The Caliban Complex," along with a note suggesting she consult the psychologist whose office was in the same building. This voluntary disclosure to Wranik is an important context-setter: it establishes that a conduit from Freedman's personal and psychological life to the building management already existed, independent of any surveillance allegation.

Arvizu assessment of Cluster B: The strongest element of this cluster is the cessation anomaly corroborated by the government's own appellate brief. This single fact — independently verified in the administrative record — supports an inference of an information channel between Freedman's sister and persons at Akin Gump that cannot be explained by coincidence alone. The apartment-contents conversations and the Schaar reference to Wranik are corroborating but less independently verifiable. An *Arvizu* analysis would characterize this cluster as sufficient to add to the cumulative basis for investigation, though insufficient on its own to establish a surveillance inference.

Cluster C — The Sister-Lassman Connection

In September 1989, Freedman visited his sister Estelle Jacobson in New Jersey and said: "I know who you're talking to at Akin Gump. It's Malcolm Lassman." His sister replied: "You are smart!" She never subsequently confirmed this exchange and continued to describe Freedman as paranoid whenever the subject arose. However, this exchange is notable for two reasons under the *Arvizu* framework.

First, Lassman was specifically identified by Akin Gump, in its own May 1993 sworn interrogatory response, as the manager who had personally consulted Gertrude Ticho. The same manager Freedman named to his sister in 1989 — years before any compelled disclosure — turned out to be the manager who, by the firm's own admission, managed the unauthorized psychiatric consultation. Second, Lassman was specifically identified as a member of Akin Gump's management committee who was "tasked with reporting on matters relating to paralegals" — making him the person most institutionally situated to serve as a contact point between paralegal affairs and outside consultants.

The sister's response — "You are smart!" — is ambiguous. It is susceptible of a complimentary-but-non-confirmatory interpretation. Under *Arvizu*, an ambiguous response that is at least as consistent with confirmation as with mere pleasantries is entitled to some weight in the cumulative calculus, even if it cannot be treated as direct confirmation.^{[9][3]}

Cluster D — Psychiatrist Conduct Patterns

Freedman describes several psychiatric consultations during his Akin Gump tenure in which the treating clinician's behavior, upon confrontation, struck him as anomalous. These include:

- **Dr. Palombo** (January–December 1990): At the outset of therapy, Palombo responded to Freedman's expressed concern about confidentiality with the ambiguous statement: "Even if I talked to your employer, how would you know?" As therapy progressed, Palombo reportedly asked questions Freedman found peculiar, including "Who were your friends in law school?" and "Who are the people who are harassing you? Name names." When accused of communicating with Akin Gump, Palombo became angry and demanded to know why Freedman was not practicing law.
- **Dr. Brown:** In approximately twenty sessions, Brown on one occasion removed his glasses and spoke at length to deny communicating with Akin Gump — a behavioral pattern Freedman found notable enough to record contemporaneously.

Arvizu assessment of Cluster D: The Palombo opening statement — "Even if I talked to your employer, how would you know?" — is the most analytically significant element of this cluster. As a response to a patient's straightforward expression of anxiety about confidentiality, this remark is structurally odd: it neither reassures nor directly denies, and it introduces the logical framework of concealment into a therapeutic context where reassurance would have been the ordinary response. A reasonable observer, trained in institutional dynamics, would register this as worth noting. The "name names" questions, standing alone, have an innocent therapeutic explanation. However, taken together with (a) the confirmed existence of a Lassman-GW psychiatrist personal channel (Dr. Ticho was GW-affiliated, as was Palombo) and (b) the consistent pattern of denial accompanied by anger and deflection, this cluster adds texture to the cumulative analysis, though it cannot bear independent weight.

Cluster E — Institutional and Structural Context

Firm leadership and reputational sensitivity. Akin Gump's executive committee included firm founder Robert S. Strauss — documented as having been hired as an FBI agent in 1941 specifically tasked with conducting surveillance of suspected Communists — and Vernon Jordan, a nationally prominent civil-rights figure. Court pleadings filed in 1993 (*McNeil v. Akin Gump*, U.S. District Court No. 93-0477) documented allegations that Freedman's direct supervisor, Christine Robertson, engaged in a pattern and practice of racial discrimination against Black employees — including racial jokes and preferential work assignments. The combination of Strauss's civil-rights bona fides and Jordan's national public identity created institutional reputational sensitivity about public discrimination claims that could rationally motivate management actions aimed at discrediting Freedman's complaints.

Race's post-termination statement. One day after Freedman's termination, managing counsel Dennis Race stated by telephone that the firm would "sign off" on an unemployment compensation claim "as long as [Freedman] did not tell the unemployment office anything that embarrasses the firm." This statement is in the administrative record. It establishes, directly and without inference, that Akin Gump's senior counsel had an explicit concern about public

disclosure of information related to Freedman's termination. Under *Arvizu*, this is the kind of verifiable, non-inferential fact that anchors the cumulative analysis.^{[2][3]}

Lassman's management style. The biography of Robert Strauss (*The Whole Damn Deal*, McGarr, 2011) characterizes Malcolm Lassman as operating in an informal, personality-driven manner outside normal institutional channels — leading eventually to his being forced out of the partnership. This is significant contextually: it makes the hypothesis that Lassman would engage in informal personal communications with a friend-psychiatrist (rather than routing through formal HR or legal channels) more plausible than it would be for a conventionally disciplined senior partner.

Supervisory performance record. Freedman was terminated on the same day he filed an internal harassment complaint against Robertson, despite a performance evaluation five months earlier in which Robertson described him as "as close to the perfect employee as it is possible to get". The same-day coincidence of termination and harassment complaint — combined with an exemplary documented performance record — is itself a circumstance entitled to weight in any holistic analysis.

Part III: Holistic *Arvizu* Integration

Weighing the Whole Picture

Arvizu does not require that each fact be suspicious in isolation — it requires that the whole picture be evaluated together. Applying this framework:^{[7][5][^1]}

Factor	Ordinary Explanation	Residue Not Explained Ordinarily
Freedman named "Ticho" under penalty of law (April 1993), one month before Akin Gump's compelled disclosure of Gertrude Ticho (May 1993)	Coincidence; small D.C. psychoanalytic community	Three-year gap between naming and confirmation; the specific Ticho named was spouse of person actually consulted
Akin Gump consulted Dr. Ticho without Freedman's consent	Legitimate safety concern	19-month concealment; EAP provider denied any record of the consultation; internal memo omits psychiatrist names
Lunch conversations referencing apartment details	Normal workplace gossip	Conversations ceased precisely when Freedman complained privately to his sister — not at workplace
Schaar reference to apartment manager	Schaar knew Wranik from building common areas	Freedman never mentioned Wranik to anyone at Akin Gump
Sister's "You are smart!" response	Polite deflection	Lassman was later confirmed by Akin Gump as the manager who arranged the unauthorized Ticho consultation
Race's "embarrasses the firm" statement	Routine legal caution	Directly corroborated in administrative record; implies active concern about disclosure
Same-day termination as harassment complaint	Coincidence	Exemplary performance record; no prior written reprimands

Factor	Ordinary Explanation	Residue Not Explained Ordinarily
Palombo: "Even if I talked to your employer, how would you know?"	Therapeutic exploration of patient's anxiety	Structurally inconsistent with ordinary reassurance

Were Portions of the Surveillance Theory Sufficiently Grounded to Warrant Targeted Investigation?

Applying the *Arvizu* standard rigorously, the answer is differentiated:

Yes — with respect to the Ticho-Lassman channel and the unauthorized psychiatric consultation. This sub-theory of the broader surveillance claim rests on a documented sworn disclosure by Akin Gump itself, a prior-in-time federal filing by Freedman naming the correct family under penalty of law, concealment for nineteen months, irreconcilable sworn contradictions, and a documented personal connection between the consulting manager and the psychiatrist consulted. These facts, taken together under the *Arvizu* totality framework, provide a "particularized and objective basis" — substantially more than a mere hunch — for a targeted investigation into whether the psychiatric consultation process was used for purposes beyond a bona fide safety assessment. An investigator applying the *Arvizu* methodology would not be permitted to dismiss each element independently; the cumulative pattern demands a response.^{[3][1][^2]}

Yes — with respect to Race's "embarrasses the firm" statement. This is a direct, non-inferential statement in the administrative record. It establishes that Akin Gump's senior counsel had explicit concerns about public disclosure. This fact alone, independent of any surveillance theory, warranted investigation into the firm's motivations in characterizing Freedman's termination.

Partial — with respect to the apartment-manager nexus. The cessation of the lunch conversations following a private complaint to Freedman's sister is independently corroborated by the D.C. Attorney General's brief. This cessation pattern is anomalous in a way that justifies investigation: if someone had knowledge of Freedman's private complaint, information was flowing through a channel outside normal workplace dynamics. However, the specific mechanism — apartment-manager surveillance — is inferential and not independently supported. A targeted investigation would be warranted into the cessation anomaly; the specific mechanism would need independent corroboration to rise above inference.

Insufficient standing alone — with respect to the psychotherapist conduct patterns (Cluster D). The Palombo "even if I talked to your employer" remark is contextually anomalous, but it is insufficient on its own to warrant investigation. However, when aggregated with Cluster A's confirmed Lassman-GW psychiatrist personal channel (Dr. Ticho was GW-affiliated, as was Palombo), the anomalous remark gains cumulative weight under *Arvizu*.^{[7][3]}

Weaker — with respect to the Robert Strauss FBI history and the structural narrative. These elements provide contextual plausibility — an institutional milieu in which informal monitoring was conceivable — but they are too distant and inferential to add meaningful weight to the cumulative analysis. *Arvizu* permits reasonable experiential inferences from

context, but it does not permit remote speculative connections to substitute for particularized facts.^[^2]

Part IV: The Anti-Atomization Problem in the Administrative Record

The D.C. Department of Human Rights characterized Freedman's surveillance beliefs as "ideas of reference" — a psychiatric formulation that Dr. Ticho reportedly applied. The D.C. Court of Appeals characterized Dr. Ticho's opinion as "the diagnosis of a disorder." Subsequent treating psychiatrists offered diagnoses of paranoid schizophrenia.

There is a structural problem with allowing psychiatric characterization to perform the work of factual analysis that *Arvizu* assigns to the totality-of-circumstances framework. Specifically, diagnosing a belief as delusional is not equivalent to demonstrating that the underlying observations that gave rise to the belief were empirically false. The administrative record itself confirms that the observation underlying the lunch-conversation cluster — that coworkers discussed apartment details with unusual specificity, and that these conversations ceased following a private complaint — was not contradicted by the Attorney General or the agency. What was characterized as delusional was Freedman's *interpretation* of that observation, not the observation itself.

Arvizu stands precisely for the proposition that individually innocent-seeming observations can, in aggregate, warrant a particularized inference of wrongdoing. The psychiatric framework that was applied to Freedman's beliefs operated on the inverse logic: each observation was explained away by an innocent account, and the residue of each explanation was then treated as zero. Under *Arvizu*, this methodological approach is precisely what is prohibited.^{[6][8][1][3]}

Importantly, comprehensive psychological testing performed at George Washington University in May 1994 disclosed that Freedman did not suffer from any Axis I psychotic psychiatric disorder. The Wisconsin Card Sorting Test administered in March 1996 indicated good executive function, which is inconsistent with "jump to conclusions" thinking associated with delusional disorders. These neuropsychological findings do not validate Freedman's surveillance theory, but they do undercut the evidentiary reliability of the psychiatric framework that served as the primary basis for dismissing his observations.

Part V: Limitations and Counterarguments

An intellectually honest *Arvizu* analysis must also weigh the factors on the other side of the ledger.

The No Probable Cause determination. The D.C. Department of Human Rights, the D.C. Superior Court, and the D.C. Court of Appeals all ultimately concluded, in *Freedman v. D.C. Department of Human Rights* (No. 96-CV-961), that Akin Gump's conduct did not constitute unlawful discrimination under the D.C. Human Rights Act. These adjudications addressed different legal questions — discriminatory conduct, not surveillance — but they reflect the assessments of multiple institutional factfinders who had access to more complete records than the affidavit summarizes.

The sister's continued denial. Estelle Jacobson denied, at every subsequent opportunity, having communicated with anyone at Akin Gump. The "You are smart!" response is textually ambiguous and could be non-confirmatory. The cessation of apartment-related conversations is corroborated, but the specific channel through which information flowed remains unestablished.

The Ticho irreconcilability cuts both ways. Dr. Ticho's denial of any contact with Akin Gump, if credited, would mean that Akin Gump's own sworn interrogatory response was false — a conclusion with its own severe implications that different investigators might read differently.

Temporal distance. The events at issue span 1988–1991, and the affidavit was executed in 2026 — a gap of approximately 35 years. Memory is constructive, and contemporaneous records should be treated as more reliable than retrospective characterizations of what contemporaneous records showed.

Self-analytical study circulation. Freedman himself circulated his self-analytical study widely: to Craig Dye, to apartment manager Wranik, and (implicitly) to others. This voluntary circulation reduces the inferential force of any hypothesis that Akin Gump obtained the document through covert channels; it establishes legitimate pathways through which the document could have reached GW psychiatrists without any surveillance mechanism.

Part VI: Conclusion

Under the *Arvizu* totality-of-the-circumstances framework, the surveillance theory is not uniformly groundless, nor is it uniformly established. The analysis yields the following calibrated conclusions:

1. **The Ticho-Lassman sub-theory** is the strongest and most independently corroborated component of the overall theory. It rests on Akin Gump's own sworn admissions rather than on Freedman's unverified perceptions alone. A reasonable investigator, applying the *Arvizu* holistic methodology, could not dismiss it by explaining away each element in isolation; the cumulative pattern — specific naming under penalty of law, spousal correspondence, concealment, contradiction — provides a particularized and objective basis for targeted inquiry.^{[1][2]}
2. **The cessation of apartment-related conversations**, independently corroborated in the government's own appellate brief, provides sufficient anomaly to warrant investigation into the information channel between Freedman's private communications and Akin Gump's workplace conduct.^[^3]
3. **Race's "embarrasses the firm" statement** is directly corroborated and provides independent, non-inferential evidence of institutional concern about disclosure — a fact that sits uncomfortably alongside the simultaneous characterization of Freedman's beliefs as purely delusional.
4. **The broader surveillance mechanism** — including the apartment-manager conduit, the psychotherapist-disclosure sub-theory, and the Strauss FBI background — involves inferential chains that, under *Arvizu*, are too extended to independently sustain a

particularized basis for investigation. They provide contextual plausibility but not evidentiary grounding.^{[4][9]}

5. **The anti-atomization critique** is analytically sound. Whatever the ultimate evaluation of the surveillance theory, the administrative and judicial processes that dismissed Freedman's observations relied precisely on the divide-and-conquer methodology that *Arvizu* forbids: each observation was assigned an innocent explanation; the residue of each explanation was treated as zero; and the sum was then pronounced delusional. A proper *Arvizu* analysis — requiring cumulative evaluation rather than sequential dismissal — would have demanded, at minimum, a more thorough factual investigation into the Ticho-Lassman channel before characterizing Freedman's beliefs in their entirety as the product of psychiatric disorder.^{[6][8][^3]}

The most legally and analytically defensible summary is this: under the *Arvizu* totality standard, the Ticho-Lassman cluster alone — grounded in the firm's own sworn disclosures — was sufficient to warrant targeted investigation into the propriety and purpose of Akin Gump's unauthorized psychiatric consultation. The broader surveillance theory, while not devoid of corroborated anomalies, extends beyond what the record can reliably support without additional investigation that was never conducted.

References

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